



Planning Commission Minutes  
Chesterfield, Virginia 23832  
July 15, 2008

**PRESENT:**

Mr. Russell J. Gulley, Chairman  
Mr. F. Wayne Bass, Vice Chairman  
Dr. William P. Brown  
Mr. Sam R. Hassen  
Mr. Reuben J. Waller, Jr.  
Mr. Kirkland A. Turner, Secretary to the Commission,  
Planning Director

**ALSO PRESENT:**

Mr. Glenn E. Larson, Assistant Director, Plans  
and Information Section, Planning Department  
Mr. Michael E. Tompkins, Assistant Director,  
Development Review Section, Planning Department  
Mr. Robert V. Clay, Planning and Special Projects Manager,  
Zoning and Special Projects Section, Planning Department  
Ms. Jane Peterson, Planning and Special Projects Manager,  
Zoning and Special Projects Section, Planning Department  
Ms. Darla W. Orr, Planning and Special Projects Manager,  
Zoning and Special Projects Section, Planning Department  
Ms. Teresa C. Davis, Planning and Special Projects Coordinator,  
Zoning and Special Projects Section, Planning Department  
Mr. Gregory E. Allen, Planning Administrator,  
Development Review Section, Planning Department  
Mr. Alan G. Coker, Senior Planner, Development  
Review Section, Planning Department  
Mr. Carl D. Schlautdt, Planning Administrator,  
Planning Department  
Mr. Jeffery H. Lamson, Senior Planner, Development  
Review Section, Planning Department  
Ms. Barbara L. Fassett, Planning Administrator, Advance Planning  
and Research Section, Planning Department  
Mr. James K. Bowling, Principal Planner, Advance Planning  
and Research Section, Planning Department  
Mr. Steven F. Haasch, Principal Planner, Advance Planning and  
Research Section, Planning Department  
Ms. Lisa Caudill, Administrative Assistant, Administration  
Section, Planning Department

Ms. Pamela Nichols, Clerk to the Commission,  
Zoning and Special Projects Section, Planning Department  
Mr. David W. Robinson, Assistant County Attorney,  
County Attorney's Office  
Mr. Richard M. McElfish, Director,  
Environmental Engineering Department  
Mr. Jim Eicher, CPTED Coordinator,  
Police Support Services  
Mr. Dave Deringer, Sergeant,  
Police Support Services  
Lieutenant Frank Nause, Fire and  
Emergency Services, Fire Department  
Ms. Patricia W. Kizzie, Assistant Director,  
Budget and Management Department  
Ms. Carol Judkins, Budget and Management Analyst,  
Budget and Management Department  
Mr. Clay Bowles, Chief of Administrative Services,  
Sheriff Department  
Ms. Cynthia O. Richardson, Director of Planning,  
School Administration  
Dr. Mike Etienne, Communications Specialist,  
Planning Department, School Administration

## **ASSEMBLY AND WORK SESSION**

Messrs. Gulley, Bass, Brown, Hassen, Waller and staff assembled at 12:00 p.m. in the Multipurpose Meeting Room of the Chesterfield County Community Development Building, 9800 Government Center Parkway, Chesterfield, VA., for lunch and a work session.

### **I. REQUESTS TO POSTPONE ACTION, EMERGENCY ADDITIONS, CHANGES IN THE ORDER OF PRESENTATION.**

On motion of Mr. Hassen, seconded by Mr. Waller, the Commission amended the agenda to add new items Potential By-Law Amendments and Format of Recommendations to the Board of Supervisors; to reorder Item VIII., Presentation by Invisible Towers as Item V.; and reordered the remaining agenda as follows:

- I. Requests to **Postpone Action, Emergency Additions, Changes in the Order of Presentation**
- II. Review Upcoming Agendas. (Any rezonings or conditional uses scheduled for future meetings.)
- III. Review **Day's Agenda**. (Any items listed for the 3:00 p.m. and 6:30 p.m. Sessions.)
- IV. **Work Program - Review and Update.**
- V. **Presentation by Invisible Towers Company.**
- VI. **Proposed Code Amendment Relative to Height of Church Steeples.**
- VII. **Proposed Code Amendment Relative to CPTED Standards (Security Proffer).**
- VIII. **Potential By-Law Amendments.**
- IX. **Format of Recommendations to the Board of Supervisors.**
- X. **Planning Topics-Large Lot/Deferred Growth Concepts.**
- XI. **Recess.**

AYES: Messrs. Gulley, Bass, Brown, Hassen and Waller.

Mr. Gulley introduced Ms. Leitha Williams, student intern with the County Attorney's Office.

## **II. REVIEW UPCOMING AGENDAS.**

Ms. Rogers apprised the Commission of the caseload agenda for the upcoming months of August, September, and October 2008.

## **III. REVIEW DAY'S AGENDA.**

Mr. Michael Tompkins presented an overview of, and staff's recommendations for, requests to be considered at the 3:00 p.m. Public Meeting.

Ms. Beverly Rogers presented an overview of, and staff's recommendations for, requests to be considered at the 6:30 p.m. Public Meeting and Hearing.

Mr. Turner presented an overview of, and staff's recommendation for Code Amendments Relative to Civil Penalties and Protecting Water Quality in the Upper Swift Creek Watershed and Plan Amendment Relative to Countywide Level of Service for Schools to be considered at the 6:30 p.m. Public Meeting and Hearing.

## **IV. WORK PROGRAM**

Mr. Turner apprised the Commission that updates were being made to the work program based upon recent Board actions and staff would provide the Commission with a revised copy.

## **V. PRESENTATION BY INVISIBLE TOWERS COMPANY.**

Mr. Mark Faris presented an overview of the background of the Invisible Tower Company and Mr. Van Thompson gave a presentation on various towers constructed by the company. Mr. Thompson encouraged the Commission to explore [www.invisibletowers.com](http://www.invisibletowers.com) for more information relative to invisible towers.

Mr. Gulley commented that the invisible towers appeared to be an excellent alternative to the current communications towers.

## **VI. PROPOSED CODE AMENDMENT RELATIVE TO HEIGHT OF CHURCH STEEPLES.**

Mr. Greg Allen presented an overview of the Amendment and noted that on May 15, 2008, the Planning Commission directed staff to research allowances that were made for steeples through variances, and to consider eliminating a proposed increase in setbacks for steeples higher than fifty (50) feet. Mr. Allen presented the results of the research and included staff's recommendation to amend the Ordinance to allow the height of church steeples located in Residential Districts to be one hundred fifty (150) feet.

The Commission voiced concerns on the height of the steeples in relation to one story churches and the amount of authority given to staff in approving the steeple heights. Mr. Allen stated that staff could modify the amendment to include stronger language to insure regulations included specific restrictions for one story churches.

Mr. Hassen suggested adding language that would require such structure to maintain an architectural relation with the building. Mr. Turner apprised the Commission that staff would like to modify the proposed Amendment and present the amended draft language at a future work session.

It was the consensus of the Commission to allow staff the present revised information at the August work session.

## **VII. PROPOSED CODE AMENDMENT RELATIVE TO CPTED STANDARDS (SECURITY PROFFER).**

Mr. Jim Eicher presented an overview of the Amendment and stated that in response to a request from county administration, the police department was requesting applicants who were seeking to rezone property for high density residential uses to provide a "security proffer" which would required the developer to provide either an annually approved security plan or a minimum police presence in order to increase safety and security of the development. Mr. Eicher outlined proposed changes relative to window placement, landscaping placement and illumination levels.

Dr. Brown exited the work session at 1:33 p.m.

Dr. Brown reentered the session at 1.37 p.m.

Mr. Gulley commented that he would like to see collaboration between CPTED and the development community, before further decisions were made. Mr. Turner asked the Commission to allow staff time to meet with the development community and to consider their input. Mr. Waller directed staff to distribute information relative to CPTED Standards to the attendees of the next Quarterly Development Meeting.

It was the consensus of the Commission to have staff present additional information on the Proposed Code Amendment Relative to CPTED Standards at the September 16, 2008, work session.

## **VIII. POTENTIAL BY-LAW AMENDMENTS.**

Mr. Waller stated that based on the recent handling of information prepared by staff for a Board of Supervisors' member, he wanted the Commission to examine the current By-Laws to determine if more clarification was needed relative to distribution of draft language prepared by staff for individual Board or Commission members.

Mr. Turner apprised the Commission that based on the confusion at a previous Board of Supervisors meeting, the County Administrator reiterated that staff would continue to support the Board and the Commission; however, information prepared for any individual member would be made available to all members. The Commission asked Mr. Turner to provide them with a copy of a memo from the County Administrator with the directive to staff. Mr. Waller recommended deferring further discussions on this item to allow the County Administrator time to draft the memo. It was the consensus of the Commission to defer action on this item to the August 19, 2008 work session.

## **IX. FORMAT OF RECOMMENDATIONS TO THE BOARD OF SUPERVISORS.**

Mr. Turner stated that during the June 17, 2008 work session, the Commission informed staff of the Commission's request to update the process governing recommendations forwarded to the Board of Supervisors. Mr. Turner asked the Commission to consider combining into one document staff's comments along with the Planning Commission's recommendations to the Board of Supervisors. He added that combining the documents would eliminate sending multiple documents to the Board of Supervisors and that staff's comments would be annotated in a shadow box to distinguish the comments from the Commission's recommendations.

The Commission voiced disapproval in combining the Commission's recommendations with staff's comments. Mr. Hassen recommended application of the same format the Planning Department uses for recommendations to the Board of Supervisors on zoning cases. Following discussions, Mr. Turner asked the Commission to defer further discussion for thirty (30) days at which time staff would present additional information. In response to Mr. Gulley's question, Ms. Rogers gave an overview of the format of recommendations to the Board of Supervisors relative to zoning cases.

It was the consensus of the Commission to delay further discussions on this item to the August 19, 2008 work session.

**X. PLANNING TOPICS-LARGE LOT/DEFERRED GROWTH CONCEPTS.**

Mr. Jimmy Bowling presented information and led a brief discussion relative to Large Lot and Deferred Growth Concepts.

Mr. Gulley exited the work session at 2:05 p.m.

Mr Gulley reentered the work session at 2:07 p.m.

Following Mr. Bowling's presentation, the Commission requested staff to identify a new planning topic and make a presentation at their August 19, 2008 work session.

Mr. Gulley requested staff to provide the Commission a copy of the RFP for the Countywide Comprehensive Plan Amendment.

**XI. RECESS.**

There being no further business, the Commission recessed at 2:22 p.m., agreeing to reconvene in the Multipurpose Room at 3:00 p.m., for the public meeting.

**3:00 P. M. PUBLIC MEETING**

Mr. Gulley, Chairman, called the meeting to order at 3:00 p.m. in the Multipurpose Meeting Room of the Chesterfield County Community Development Customer Service Building.

**I. REQUESTS TO POSTPONE ACTION, EMERGENCY ADDITIONS OR CHANGES IN THE ORDER OF PRESENTATION.**

There were no changes to the agenda.

**II. REVIEW MEETING PROCEDURES.**

Mr. Turner reviewed the meeting procedures.

**III. APPROVAL OF THE PLANNING COMMISSION MINUTES:**

- **JUNE 3, 2008, PLANNING COMMISSION PUBLIC HEARING MINUTES.**

On motion of Dr. Brown, seconded by Mr. Bass, the Commission resolved to approve the June 3, 2008 Planning Commission minutes.

AYES: Messrs. Gulley, Bass, Brown, Hassen and Waller.

- **JUNE 17, 2008, PLANNING COMMISSION MINUTES.**

On motion of Mr. Waller, seconded by Mr. Bass, the Commission resolved to approve the June 17, 2008 Planning Commission minutes.

AYES: Messrs. Gulley, Bass, Brown, Hassen and Waller.

**IV. CONSIDERATION OF THE FOLLOWING REQUESTS:**

- **REQUESTS FOR DEFFERALS BY APPLICANT.**

**08PS0360:** In Midlothian Magisterial District, **STONEHENGE VILLAGE, LLC** requested deferral of consideration of the architectural theme for buildings on outparcels for Stonehenge Village Shopping Center. This request lies in Corporate Office (O-2) and Community Business (C-3) Districts on 13.2 acres fronting approximately 1950 feet on the south line of Midlothian Turnpike across from Walmart Way. Tax IDs 735-707-Part of 6669 and 9536; 736-707-4093 and Part of 8355; and 737-707-2091 and 2699.

Mr. Malachi Mills, the applicant's representative, requested deferral of Case 08PS0360 to the August 19, 2008, Planning Commission meeting.

No one came forward to speak in favor of, or in opposition to, the request.

The following motion was made at the applicant's request.

On motion of Mr. Waller, seconded by Mr. Bass, the Commission resolved to defer Case 08PS0360 to the August 19, 2008, Planning Commission meeting.

AYES: Messrs. Gulley, Bass, Brown, Hassen and Waller.

**08PR0268:** In Dale Magisterial District, **THE BERMUDA TRIANGLE PROPERTY, LP** requested deferral of consideration for a 70 foot reduction to a 100 foot buffer in conjunction with site plan review. This development is commonly known as IRONBRIDGE STORAGE EXPANSION. This request lies in a General Business (C-5) District on 11.9 acres fronting approximately 250 feet on the east line of Ironbridge Road also fronting approximately 500 feet on the north line of Quaiff Lane and located in the northeast quadrant of the intersection of these roads. Tax IDs 772-673-3836, Part of 4300 and 9020.

Ms. Carrie Coyner, applicant's representative, requested deferral of Case 08PR0268 to the September 16, 2008, Planning Commission meeting.

No one came for to speak in favor of, or in opposition to, the request.

The following motion was made at the applicant's request.

On motion of Dr. Brown, seconded by Mr. Waller, the Commission resolved to defer Case 08PR0268 to the September 16, 2008, Planning Commission meeting.

AYES: Messrs. Gulley, Bass, Brown, Hassen and Waller.

- **CASE WHERE THE APPLICANT ACCEPTS STAFF'S RECOMMENDATION AND THERE WAS OPPOSITION PRESENT.**

**08TW0366:** In Dale Magisterial District, **ROBERT AND SHERRI WILKINSON** request a development standards waiver to Section 19-510(a)(1) of the Zoning Ordinance to permit a RV camper to be parked outside the required rear yard. The request lies in a Residential (R-7) District on a 0.29-acre parcel located at 4840 Vestry Road approximately 500 feet from its intersection with Alfare Road. Tax ID 784-665-1517.

Mr. Ryan Ramsey presented an overview of the request and staff's recommendation for approval noting the physical constraints of the property, to include the location of the detached garage and septic/drain field along the sides and rear. Mr. Ramsey apprised the Commission that he had received a letter of opposition.

Mr. Robert and Sherri Wilkinson, the applicants, accepted staff's recommendation.

Mr. Gulley opened the discussion for public comment.

Messrs. Clarence Elks, Phil Benson, Misses. Paula Benson, Andrea Epps and Alisha Frazier, area residents and/or adjacent property owners, spoke in favor of the request.

Mr. Harry W. Trimble spoke in opposition to the request citing that it would set a precedent allowing for similar requests; thereby causing deterioration to the neighborhood's appearance and depreciation in property value.

Mr. Gulley closed the public comments.

Dr. Brown commented that the location of the recreational vehicle mitigated its visual impact upon the community and that he was in agreement with staff's recommendation.

On motion of Dr. Brown, seconded by Mr. Gulley, the Commission resolved to approve Case 08TW0366 subject to the following conditions:

#### CONDITIONS

1. The recreational vehicle shall be parked in the side yard behind the front plane of the front porch and at least five (5) feet from the side property line at all times except during loading and unloading activities. (P)
2. This Development Standards Waiver shall be granted exclusively to Sherri and Robert Wilkinson, and not be transferable with the land. (P)

AYES: Messrs. Gulley, Bass, Brown, Hassen and Waller.

V. SUSPENSION OF PLANNING COMMISSION BY-LAWS TO PERMIT REV. TERESA KEEZEL, PASTOR, ST. LUKE UNITED METHODIST CHURCH, TO PRESENT THE INVOCATION AT THE 6:30 P.M. EVENING SESSION.

On motion of Dr. Brown, seconded by Mr. Gulley, the Commission suspended their By-Laws to permit Rev. Teresa Keezel, Pastor of St. Luke United Methodist Church to present the invocation at the 6:30 p.m. Planning Commission Public Meeting/Hearing Evening Session.

AYES: Messrs. Gulley, Bass, Brown, Hassen and Waller.

VI. RECESS.

There being no further business to discuss, the Commission recessed the Afternoon Session at approximately 3.23 p.m., agreeing to meet in the Executive Meeting Room for dinner at 5:00 p.m. and to reconvene in the Public Meeting Room at 6:30 p.m. for the public meeting.

During dinner, there was general discussion regarding pending cases.

6:30 P. M. PUBLIC MEETING AND HEARING.

I. INVOCATION.

Rev. Teresa Keezel, of St. Luke United Methodist Church, presented the invocation.

II. PLEDGE OF ALLEGIANCE TO THE FLAG OF UNITED STATES OF AMERICA.

Ms. Kristen Keatley led the Pledge of Allegiance to the Flag.

III. REVIEW UPCOMING AGENDAS.

Mr. Turner apprised the Commission of the caseload agenda for the upcoming months.

IV. REQUESTS TO POSTPONE ACTION, EMERGENCY ADDITIONS OR CHANGES IN THE ORDER OF PRESENTATION.

There were no requests to postpone action, emergency additions or changes in the order of presentation.

V. REVIEW MEETING PROCEDURES.

Mr. Turner reviewed the meeting procedures.

VI. CITIZEN COMMENT ON UNSCHEDULED MATTERS.

There was no one who wished to speak.

VII. PUBLIC HEARING.

- REQUESTS FOR DEFERRALS BY APPLICANTS.



**08SN0249:** In Clover Hill Magisterial District, **HERITAGE SIGNS** requested deferral of consideration of amendment to Conditional Use Planned Development (Case 03SN0132) and amendment of zoning district map relative to freestanding signage. The density of such amendment will be controlled by zoning conditions or Ordinance standards. The Comprehensive Plan suggests the property is appropriate for office use. This request lies in a Light Industrial (I-1) District on 10.8 acres and is known as 10531 and 10601 Midlothian Turnpike. Tax IDs 746-708-1182 and 746-709-2712.

Mr. Shannon Johnson, the applicant's representative, requested deferral of Case 08SN0249 to the August 19, 2008, Planning Commission public hearing.

There was no opposition to the deferral.

The following motion was made at the applicant's request.

On motion of Mr. Gulley, seconded by Mr. Waller, the Commission resolved to defer Case 08SN0249 to the August 19, 2008, Planning Commission public hearing.

AYES: Messrs. Gulley, Bass, Brown, Hassen and Waller.

**08SN0255:** In Clover Hill Magisterial District, **KPC PROPERTIES** requested deferral of consideration of amendment to Conditional Use Planned Development (Case 89SN0320) and amendment of zoning district map to delete limitations on nightclub/special events uses relative to location of operation, size of dance floor and operator and to permit outside public address systems. The density of such amendment will be controlled by zoning conditions or Ordinance standards. The Comprehensive Plan suggests the property is appropriate for conservation/recreation and residential use of 2.0 units per acre or less. This request lies in a Residential (R-7) District on 1.3 acres lying approximately 610 feet off the west line of Millridge Parkway approximately 300 feet south of Planters Wood Road. Tax IDs 730-678-0750, 0857, 0935, 1045, 1529 and 1553.

Mr. Jim Theobald, the applicant's representative, requested deferral of Case 08SN0255 to the September 16, 2008, Planning Commission public hearing.

There was no opposition to the deferral.

The following motion was made at the applicant's request.

On motion of Gulley, seconded by Mr. Bass, the Commission resolved to defer Case 08SN0255 to the September 16, 2008, Planning Commission public hearing.

AYES: Messrs. Gulley, Bass, Brown, Hassen and Waller.

**08SN0256:** In Bermuda Magisterial District, **KECK TRUST AND NINA V. SHOOSMITH ET ALS** requested deferral of consideration of rezoning and amendment of zoning district map from Agricultural (A) and Light Industrial (I-1) to Heavy Industrial (I-3). The density of such amendment will be controlled by zoning conditions or Ordinance standards. The Comprehensive Plan suggests the property is appropriate for light industrial/industrial uses. This request lies on 167 acres fronting approximately 1050 feet on the south line of Bermuda Hundred Road approximately 1130 feet northwest of Allied Road. Tax IDs 828-649-7372; 829-650-8343; 830-649-1629; and 830-650-4043.

Mr. Jim Daniels, the applicant's representative, requested deferral of Case 08SN0256 to the August 19, 2008, Planning Commission public hearing.

There was no opposition to the deferral.

The following motion was made at the applicant's request.

On motion of Mr. Hassen, seconded by Dr. Brown, the Commission resolved to defer Case 08SN0256 to the August 19, 2008, Planning Commission public hearing.

AYES: Messrs. Gulley, Bass, Brown, Hassen and Waller.

**08PD0372:** In Dale Magisterial District, **CHESTERFIELD COUNTY PARKS AND RECREATION** requested deferral of consideration of Substantial Accord Determination and amendment of zoning district map on 3.6 acres to permit public park use and amendment to Substantial Accord Determination (Case 04PD0126) to permit active recreational uses on 11.5 acres. The density of such amendment will be controlled by zoning conditions or Ordinance standards. The Comprehensive Plan suggests the property is appropriate for residential use of 2.51 to 4.0 units per acre or less. This request lies in Agricultural (A) and Corporate Office (O-2) Districts on 15.1 acres fronting approximately 130 feet on the west line of Ridgedale Parkway approximately 3600 feet northwest of Iron Bridge Road. Tax IDs 773-688-Part of 0410 and 774-689-Part of 6684.

Mr. Mike Golden, the applicant's representative, requested deferral of Case 08PD0372 to the August 19, 2008, Planning Commission public hearing.

There was no opposition to the deferral.

The following motion was made at the applicant's request.

On motion of Dr. Brown, seconded by Mr. Bass, the Commission resolved to defer Case 08PD0372 to the August 19, 2008, Planning Commission public hearing.

AYES: Messrs. Gulley, Bass, Brown, Hassen and Waller.

- **REQUESTS FOR DEFERRAL BY PLANNING COMMISSIONERS.**

**07SN0358:** In Matoaca Magisterial District, **CHRIS AND GLADYS KALENTZOS** requested rezoning and amendment of zoning district map from Residential (R-40) to Residential (R-15). Residential use of up to 2.9 units per acre is permitted in a Residential (R-15) District. The Comprehensive Plan suggests the property is appropriate for single family residential use of 2.0 units per acre or less. This request lies on 8.1 acres fronting approximately 500 feet on the west line of Weatherbury Place approximately 1160 feet north of Genito Road. Tax IDs 711-689-1531, 2247 and 2465.

Ms. Kristen Keatley, the applicant's representative, accepted deferral of Case 07SN0358 by Mr. Bass to the September 16, 2008, Planning Commission public hearing.

There was no opposition to the deferral.

The following motion was made at Mr. Bass's request.

On motion of Mr. Bass, seconded by Mr. Hassen, the Commission, on their own motion, resolved to defer Case 07SN0358 to the September 16, 2008, Planning Commission public hearing.

AYES: Messrs. Gulley, Bass, Brown, Hassen and Waller.

**07SN0359:** In Matoaca Magisterial District, **M & K DEVELOPERS** requested rezoning and amendment of zoning district map from Agricultural (A) and Residential (R-40) to Residential (R-15) of 26.8 acres with Conditional Use on 3.4 acres of this 26.8 acre tract to permit a business (bed and breakfast and special events) incidental to a dwelling unit. Residential use of up to 2.9 units per acre is permitted in a Residential (R-15) District. The density of the Conditional Use will be controlled by zoning conditions or Ordinance standards. The Comprehensive Plan suggests the property is appropriate for single family residential use of 2.0 units per acre or less. This request is located in the northeast quadrant of Genito Road and Weatherbury Place. Tax IDs 711-688-3114 and 7172; and 712-689-1950.

Ms. Kristen Keatley, the applicant's representative, accepted deferral of Case 07SN0359 by Mr. Bass to the September 16, 2008, Planning Commission public hearing.

There was no opposition to the deferral.

The following motion was made at Mr. Bass's request.

On motion of Mr. Bass, seconded by Mr. Hassen, the Commission, on their own motion, resolved to defer Case 07SN0359 to the September 16, 2008, Planning Commission public hearing.

AYES: Messrs. Gulley, Bass, Brown, Hassen and Waller.

**07SN0360:** In Matoaca Magisterial District, **DOUGLAS SOWERS** requested rezoning and amendment of zoning district map from Agricultural (A) and Residential (R-40) to Residential (R-15). Residential use of up to 2.9 units per acre is permitted in a Residential (R-15) District. The Comprehensive Plan suggests the property is appropriate for conservation: passive recreation and single family residential use of 2.0 units per acre or less. This request lies on 2 tracts totaling 198.8 acres the first fronting approximately 2160 feet on the west line of Otterdale Road approximately 1230 feet north of Genito Road and the second fronting approximately 130 feet on the west line of Otterdale Road approximately 470 feet south of Genito Road. Tax IDs 711-692-2160; 712-688-4372; 712-689-3422, 6214, 7342 and 8374; and 713-689-3525.

Ms. Kristen Keatley, the applicant's representative, accepted deferral of Case 07SN0360 by Mr. Bass to the September 16, 2008, Planning Commission public hearing.

There was no opposition to the deferral.

The following motion was made at Mr. Bass's request.

On motion of Mr. Bass, seconded by Mr. Hassen, the Commission, on their own motion, resolved to defer Case 07SN0360 to the September 16, 2008, Planning Commission public hearing.

AYES: Messrs. Gulley, Bass, Brown, Hassen and Waller.

**07SN0361:** In Matoaca Magisterial District, **ROBERT C. SOWERS AND DOUGLAS AND SUSAN SOWERS** requested rezoning and amendment of zoning district map from Agricultural (A) to Residential (R-

12) plus Conditional Use Planned Development to permit exceptions to Ordinance requirements. The density of such amendment will be controlled by zoning conditions or Ordinance standards. The Comprehensive Plan suggests the property is appropriate for conservation: passive recreation and single family residential use of 2.0 units per acre or less. This request lies on 26.2 acres fronting approximately 1030 feet on the west line of Otterdale Road approximately 3380 feet north of Genito Road. Tax IDs 713-691-1673 and 8928; and 714-690-1660.

Ms. Carrie Coyner, the applicant's representative, accepted deferral of Case 07SN0361 by Mr. Bass to the September 16, 2008, Planning Commission public hearing.

There was no opposition to the deferral.

The following motion was made at Mr. Bass's request.

On motion of Mr. Bass, seconded by Dr. Brown, the Commission, on their own motion, resolved to defer Case 07SN0361 to the September 16, 2008, Planning Commission public hearing.

AYES: Messrs. Gulley, Bass, Brown, Hassen and Waller.

**08SN0105:** In Clover Hill Magisterial District, **STYLECRAFT HOMES DEVELOPMENT CORP.** requested rezoning and amendment of zoning district map from Neighborhood Business (C-2) and Community Business (C-3) to Community Business (C-3) with Conditional Use to permit multifamily and townhouse uses on 15.5 acres plus Conditional Use Planned Development to permit exceptions to Ordinance requirements on the entire 20.6 acres. The density of such amendment will be controlled by zoning conditions or Ordinance standards. The Comprehensive Plan suggests the property is appropriate for general commercial and light industrial uses. This request fronts approximately 740 feet on the south line of Midlothian Turnpike approximately 150 feet west of Tuxford Road. Tax ID 751-706-3789.

Mr. Bass declared a conflict of interest due to a business association with the property owner.

Mr. Larry Horton, the applicant's representative, accepted deferral of Case 08SN0105 by Mr. Gulley to the August 19 2008, Planning Commission public hearing.

There was no opposition to the deferral.

The following motion was made at Mr. Gulley's request.

On motion of Mr. Gulley, seconded by Mr. Waller, the Commission, on their own motion, resolved to defer Case 08SN0105 to the August 19, 2008, Planning Commission public hearing.

AYES: Messrs. Gulley, Brown, Hassen and Waller.

ABSENT: Mr. Bass

- **CASES WHERE THE APPLICANT ACCEPTS THE RECOMMENDATION AND THERE IS NO PUBLIC OPPOSITION.**

**08SN0245:** In Bermuda Magisterial District, **GERALD R. AND JANET P. WHITE** request rezoning and amendment of zoning district map from Agricultural (A) to Community Business (C-3). The density of such amendment will be controlled by zoning conditions or Ordinance standards. The Comprehensive Plan

suggests the property is appropriate for community commercial/mixed use corridor use. This request lies on 0.6 acres fronting approximately 170 feet on the south line of Arrowfield Road approximately 190 feet east of Jefferson Davis Highway. Tax ID 799-628-Part of 7084.

Mr. Gerald R. White, the applicant, accepted staff's recommendation.

No one came forward to speak in favor of, or in opposition to, the request.

On motion of Mr. Hassen, seconded by Mr. Bass, the Commission resolved to recommend approval of Case 08SN0245.

AYES: Messrs. Gulley, Bass, Brown, Hassen and Waller.

**08SN0248:** In Bermuda Magisterial District, **DAVID AND ELIZABETH VAUGHN** request Conditional Use and amendment of zoning district map to permit a 2 family dwelling in a Residential (R-15) District. The density of such amendment will be controlled by zoning conditions or Ordinance standards. The Comprehensive Plan suggests the property is appropriate for residential use of 1.5 dwellings per acre or less. This request lies on 5.4 acres and is known as 12800 Norlanya Drive. Tax ID 828-656-0224.

Mr. David and Elizabeth Vaughn, the applicants, accepted staff's recommendation.

No one came forward to speak in favor of, or in opposition to, the request.

On motion of Mr. Hassen, seconded by Mr. Bass, the Commission resolved to recommend approval of Case 08SN0248 subject to the following conditions:

#### CONDITIONS

1. Occupancy of the second dwelling unit shall be limited to: the occupants of the principal dwelling unit, individuals related to them by blood, marriage, adoption or guardianship, foster children, guests and any domestic servants. (P)
2. For the purpose of providing record notice, prior to the issuance of a building permit to construct the second dwelling unit, a deed restriction shall be recorded setting forth the limitation in Condition 1 above. The deed book and page number of such restriction and a copy of the restriction as recorded shall be submitted to the Planning Department. (P)

AYES: Messrs. Gulley, Bass, Brown, Hassen and Waller.

**08SN0252:** In Bermuda Magisterial District, **PREMIER PARTNERS, INC.** requests amendment to rezoning (Case 98SN0196) and amendment of zoning district map relative to access. The density of such amendment will be controlled by zoning conditions or Ordinance standards. The Comprehensive Plan suggests the property is appropriate for general commercial use. This request lies in a General Business (C-5) District on 6.6 acres and located in the southwest quadrant of the intersection of Chester and Perryment Roads. Tax IDs 791-673-7612, 7731 and 7847.

Mr. David Matthews, the applicant's representative, accepted staff's recommendation.

No one came forward to speak in favor of, or in opposition to, the request.

On motion of Mr. Hassen, seconded by Mr. Bass, the Commission resolved to recommend approval of Case 08SN0252 and acceptance of the following proffered condition:

PROFFERED CONDITION

Direct vehicular access from the property to Perrymont Road shall be limited to two (2) entrances/exits. The exact location of these accesses shall be approved by the Transportation Department. (T)

AYES: Messrs. Gulley, Bass, Brown, Hassen and Waller.

**07PD0248:** In Clover Hill Magisterial District, **CHESTERFIELD COUNTY PARKS AND RECREATION** requests Substantial Accord Determination on 10 acres of 52 acre tract to permit expansion of the proposed Providence Road park site, plus amendment to substantial accord (Case 92PD0197) relative to development standards. This request lies in an Agricultural (A) District on 52 acres fronting approximately 1560 feet on the south line of Powhite Parkway, west of the northern terminus of Condrey Ridge Drive, and also fronting the north line of West Providence Road across from Providence Elementary School. Tax IDs 743-692-Part of 4869 and 743-693-5361.

Mr. Mike Golden, the applicant's representative, accepted staff's recommendation.

No one came forward to speak in favor of, or in opposition to, the request.

On motion of Mr. Gulley, seconded by Mr. Bass, the Commission found Case 07PD0248 for a proposed public facility (for expansion of the planned West Providence Road Park and to delete the Condition (Request II)) to be in Substantial Accord with the Comprehensive Plan subject to the following conditions:

CONDITIONS

1. Development of the property shall be in general conformance with the conceptual development plan, entitled "Concept Plan, West Providence Road Park", and dated April 14, 2008. (P)
2. Other than security lighting, no outdoor lighting shall be permitted. (P)
3. The park will only be open to the public from one-half (1/2) of an hour before sunrise to one-half (1/2) of an hour after sunset each day. Each entrance shall be gated to preclude trespassing when the park is closed. (P&R)
4. A minimum of sixty (60) parking spaces shall be provided for each sports/play field. (P)
5. There shall be no public road access to Academy Drive. As part of the initial development, an emergency access road shall be provided from West Providence Road to Academy Drive. This road shall be constructed to accommodate access in case of emergency and shall be gated to preclude its use other than during emergency situations. The exact design, location and maintenance provisions of this access shall be reviewed and approved by the Fire Department at the time of plan review. (T&F)
6. Prior to or in conjunction with development of any active recreational use, a public restroom facility with a minimum of 240 gross square feet shall be constructed. (P)

7. Except for trails and walking paths, all uses shall be located a minimum of 150 feet from adjacent properties and from the ultimate rights of way of West Providence Road and Powhite Parkway. Within this setback, existing vegetation shall be supplemented where necessary, with landscaping or other devices designed to achieve the buffering standards contained in Section 19-522(a)(4) of the Zoning Ordinance. (P)
8. All sound sensitive uses, as determined by the Transportation Department, shall be located a minimum of 200 feet from the right of way for Powhite Parkway, unless a noise study demonstrates that a lesser distance is acceptable as approved by the Transportation Department. Natural vegetation shall be retained within this 200-foot setback unless otherwise approved by the Planning Commission. (T)

(Note: No modification to this setback and/or to the requirement for retaining vegetation shall reduce the setback and buffer requirements of Condition 7.)

9. With the exception of buffers and setbacks for play fields, courts, playgrounds and similar active recreational areas and for any sound sensitive uses, development shall conform to the requirements of the Zoning Ordinance for Corporate Office (O-2) Districts in Emerging Growth Areas. (P)

(Note: The requirements of the underlying Agricultural (A) Zoning classification, where these requirements exceed the requirements of the Ordinance for O-2 Districts in Emerging Growth Areas, remain applicable for any active recreational use developed on the property.)

10. Except for timbering approved by the Virginia Department of Forestry for the purpose of removing dead or diseased trees, there shall be no timbering on the Property until a land disturbance permit has been obtained from the Environmental Engineering Department and the approved devices installed. (EE)
11. With the approval of this request, the Condition of Case 92PD0197 shall be deleted. (P)

AYES: Messrs. Gulley, Bass, Brown, Hassen and Waller.

**08SN0219:** In Bermuda Magisterial District, **DONNA P. BRENNAN** requests Conditional Use and amendment of zoning district map to permit a special events business incidental to a dwelling unit in a Residential (R-12) District. The density of such amendment will be controlled by zoning conditions or Ordinance standards. The Comprehensive Plan suggests the property is appropriate for residential use of 1.0-2.5 dwelling units per acre. This request lies on 2.6 acres and is known as 10301 Old Wrexham Road. Tax ID 774-661-8804.

Ms. Donna P. Brennan, the applicant, accepted staff's recommendation.

No one came forward to speak in favor of, or in opposition to, the request.

On motion of Mr. Hassen, seconded by Mr. Waller, the Commission resolved to recommend approval of Case 08SN0219 and acceptance of the following proffered conditions:

#### PROFFERED CONDITIONS

1. This Conditional Use shall be granted to Donna Brennan and her immediate family exclusively. (P)
2. Other than Donna Brennan and persons who reside in the home, a maximum of eight (8) employees shall be engaged in the special events business. (P)
3. The days and hours that the special events business may be open to the public shall be as follows:
  - a. Between 9:00 a.m. and 9:00 p.m. on Sundays through Thursdays;
  - b. Between 9:00 a.m. and 11:00 p.m. on Fridays and Saturdays. (P)
4. No vendor deliveries shall be permitted before 9:00 a.m. or after 6:00 p.m. (P)
5. Other than normal maintenance and cosmetic enhancements, there shall be no exterior additions or alterations to existing structures, nor any new construction, to accommodate this use. This does not restrict the Owners from periodic use of tents for special events and does not prevent the Owners from providing necessary accommodations for the handicapped such as ramps. (P)
6. One (1) freestanding sign not to exceed four (4) square feet in area and a height of two (2) feet shall be permitted to identify this use. (P)
7. Outdoor music and sound equipment shall not be permitted. (P)
8. No freestanding lighting shall exceed twenty (20) feet in height. (P)
9. There shall be no more than 200 individuals, exclusive of employees and persons who reside in the home, on site at any one (1) time. (P)
10. There shall be no direct vehicular access from the property to Centralia Road. Direct vehicular access from the property to Old Wrexham Road shall be limited to one (1) entrance/exit. The exact location of this access shall be approved by the Transportation Department. (T)
11. All parking areas shall have a minimum setback of fifty (50) feet. This setback shall be landscaped so as to minimize the view of parking areas from adjacent properties.
12. A twenty-five (25) foot buffer shall be maintained along the southern and eastern property boundaries. Only passive uses associated with the business shall be permitted within the buffer areas. These buffer areas shall be landscaped so as to minimize the view of the facilities from adjacent properties. (P)

AYES: Messrs. Gulley, Bass, Brown, Hassen and Waller.

## **XII. CODE AMENDMENTS**

### **◆ PROPOSED CODE AMENDMENT TO ELIMINATE CIVIL PENALTIES.**



An Ordinance to amend the Code of the County of Chesterfield, 1997, as amended, by amending and repealing Section 19-6 relating to civil penalties. The proposed amendment would remove civil penalties. The three areas currently enforceable by civil penalties would be enforced through other means including criminal prosecutions and injunctions.

Mr. Ted Barclay stated that the civil penalty process had not proven to be an effective means to resolve zoning violations; the process had not been used in approximately twelve (12) years; and the department was successfully using the criminal division of the general district court for zoning enforcement.

Mr. Gulley opened the floor for public comments.

There being no one to speak, Mr. Gulley closed the public comments.

On motion of Mr. Bass, seconded by Mr. Hassen, the Commission resolved to recommend approval of the following:

(1) *That Section 19-6 of the Code of the County of Chesterfield, 1997, as amended, be amended and re-enacted to read as follows:*

**Sec. 19-6. ~~Civil penalties for certain violations~~ Reserved**

~~a) — Any violation of the following provisions shall be punishable by a civil penalty of not more than \$100.00 for the initial summons and not more than \$250.00 for each additional summons:~~

~~(1) — Operation of a business that is not a home occupation, on a lot or parcel inside or outside of a dwelling unit or accessory building, in any R, R TH, R MF or A district, without a special exception or conditional use.~~

~~(2) — Violation of any condition of zoning and development approvals and substantial accord approvals that relates to the hours of operation of the use of land or that relates to reduction or control of noise from the use of land.~~

~~(b) — Each day during which any violation of subsection (a) exists shall constitute a separate violation. However, in no event shall any such violation arising from the same set of operative facts be charged more frequently than once in any ten-day period, nor shall a series of such violations arising from the same set of operative facts result in civil penalties which exceed a total of \$5,000.00.~~

~~(c) — The designation of a particular violation of this section as an infraction pursuant to subsection (a) shall be in lieu of criminal sanctions, and except for any violation resulting in injury to any person or persons, such designation shall preclude the prosecution of a violation as a criminal misdemeanor.~~

~~(d) — The director of planning shall cause one copy of a summons to be personally served upon persons violating the provisions of subsection (a).~~

~~(e) — Such summons shall contain the following information:~~

~~(1) — The name and address of the person charged.~~

~~(2) — The nature of the infraction and the ordinance provision(s) being violated.~~

~~(3) — The location, date and time that the infraction occurred or was observed.~~

~~(4) — The amount of the civil penalty assessed for the infraction.~~

~~(5) The manner, location and time in which the civil penalty may be paid to the county.~~

~~(6) The right of the recipient of the summons to elect to stand trial for the infraction and the date for such trial.~~

~~(f) The summons shall provide that any person summoned for a violation may elect to pay the civil penalty by making an appearance in person or in writing by mail to the county treasurer at least 72 hours prior to the time and date fixed for trial and, by such appearance, may enter a waiver of trial, admit liability and pay the civil penalty established for the offense charged. Such summons shall provide that a signature to an admission of liability shall have the same force and effect as a judgment of court. However, an admission shall not be deemed a criminal conviction for any purpose.~~

~~(g) If a person charged with a violation does not elect to enter a waiver of trial and admit liability, the violation shall be tried in the general district court in the same manner and with the same right of appeal as provided by law or equity and it shall be the county's burden to prove the violator's liability by a preponderance of the evidence. A finding of liability shall not be deemed a criminal conviction for any purpose.~~

~~(h) The remedies provided for in this section are cumulative and not exclusive and shall be in addition to any other remedies provided by law or equity.~~

(2) *That this ordinance become effective immediately upon adoption.*

AYES: Messrs. Gulley, Bass, Brown, Hassen and Waller.

◆ CODE AMENDMENTS RELATIVE TO PROTECTING WATER QUALITY IN THE UPPER SWIFT CREEK WATERSHED.

An Ordinance to amend the Code of the County of Chesterfield, 1997, as amended, by amending Sections 8-1 and 8-2 of the Erosion and Sediment Control Ordinance and Section 19-238 of the Zoning Ordinance and adding Sections 19-240, 19-240.1, 19-240.2, 19-240.3 and 19-240.4 of the Zoning Ordinance. The amendments relate to development standards and protection of natural resources in the Upper Swift Creek Watershed ("Watershed") which consists of all land in the County located upstream of the Swift Creek Reservoir Dam.

- a. **"Mass Grading"** - The amendments would define "mass grading" as follows: "The process of achieving a desired ground configuration by altering existing ground contours through a process of engineered cutting and filling of soil. Mass grading includes lots that average more than 10,000 square feet." For land within the Watershed, the ordinance would: (i) prohibit mass grading for lots that average more than 10,000 square feet; and (ii) require development of certain sensitive environmental features in residential subdivisions (i.e., Resource Protection Areas, 100 year flood plains where the contributing drainage areas exceeds 100 acres, and wetlands that exceed 1/2 acre) to be located in either common open space maintained by a homeowners association or within a conservation easement outside of a subdivision lot.
- b. **"Tree Save"** - In addition, for land within the Watershed, the proposed amendments would provide requirements for the preservation, planting and replacement of trees during the development process

per the requirements of Va. Code § 15.2-961. The ordinance would provide that trees be preserved, planted or replaced so that within 20 years of development there will be a minimum tree canopy of 15% for a residential site zoned between 10 and 20 units per acre, and a canopy of 20% for a residential site zoned 10 units or less per acre. The ordinance would also include provisions (i) for reducing canopies or granting credit in consideration of preserving existing trees or trees of outstanding characteristics, (ii) for reasonable exceptions to these requirements, (iii) applicable standards regarding qualifying trees, (iv) penalties for violations equal to the County's penalty for violating the zoning ordinance, and (v) all other matters that may be required by Va. Code § 15.2-961. Discussion may include all of the recommendations listed above. After the public hearing, appropriate changes or corrections may be made to the proposed amendments.

Mr. Scott Flanigan presented an overview of the amendments and stated that the proposed amendments promote development standards that are consistent with the protection of natural resources and facilitate the county's water quality goals for area streams and the Swift Creek Reservoir. He added that the "mass grading" Ordinance addressed water quality concerns related to construction activities, preservation of natural resources and reduction of pollutants from future development; and the "tree save" Ordinance addressed water quality concerns related to preservation of existing vegetation and reduction of pollutants from future development.

Mr. Dick McElfish responded to question from the Commission relative to the proposed restrictions and the enforcement of the existing erosion and sediment control requirements.

Mr. Gulley opened the floor for public comments.

Dr. Brown exited the meeting at 7:47 p.m.

Messrs. James Shelton, Peter Morton, Ms. Norma Sucall, Ms. Catherine Reynolds and Dr. Betty Hunter-Clapp spoke in favor of the amendments noting the economic benefits in maintaining the mature trees; the survivor rate of mature trees verses immature trees; the long term benefits to taxpayers in restricting mass grading and the effect mass grading would have on the reservoir.

Dr. Brown returned to the meeting at 7:51 p.m.

Ms. Carrie Coyner voiced concerns that the tree save Ordinance would decrease visibility and decrease safety within the neighborhoods; that mass grading limitations would cause the number and size of lots to decrease thereby resulting in less home construction.

Mr. Brennan Keenan commented that discussions should be conducted Countywide because the proposed amendments would impact development outside of the *Upper Swift Creek* area; and that a cost analysis on reducing silt in the reservoir should be conducted before approving the amendments.

There being no one else to speak, Mr. Gulley closed the public comments.

Mr. Bass spoke in favor of the amendments. Messrs. Gulley, Brown, Hassen and Waller supported the "tree save" amendment and noted concerns on the "mass grading" amendment relative to stricter standards for residential properties; and limited standards designed to enforce the Ordinance.

The Commission stated that additional information was needed on the "mass grading" amendment; and therefore deferred this item to the October 21, 2008 public hearing. Mr. Gulley advised the Commissioner to

schedule separate meetings with Mr. McElfish to discuss concerns relative to mass grading and asked Mr. Flanigan to update the Commission on modifications to the amendment.

On motion of Dr. Brown, seconded by Mr. Waller, the Commission resolved to defer consideration of the Code amendment relative to "mass grading" in the *Upper Swift Creek Watershed* to October 21, 2008 public hearing.

AYES: Messrs. Gulley, Brown, Hassen and Waller.

NAY: Mr. Bass

On motion of Mr. Bass, seconded by Dr. Brown, the Commission resolved to recommend approval of the following Code Amendment relative to "tree save":

*(1) That Sections 19-240, 19-240.1, 19-240.2, 19-240.3 and 19-240.4 of the Code of the County of Chesterfield, 1997, as amended, be added and enacted to read as follows:*

#### **Sec. 19-240. Tree Planting, Replacement and Preservation in the Upper Swift Creek Watershed.**

The purpose of Sections 19-240 through 19-240.4 is to promulgate regulations for the planting and replacement of trees destroyed or damaged during the development or redevelopment process for single-family residential projects, pursuant to Section 15.2-961 of the Code of Virginia, including the preservation of trees during development in appropriate instances.

#### **Sec. 19-240.1. General Standards.**

(a) All trees to be planted shall meet the specifications of the American Association of Nurserymen.

(b) The planting of trees shall be done in accordance with either the standardized landscape specifications jointly adopted by the Virginia Nurserymen's Association, the Virginia Society of Landscape Designers and the Virginia Chapter of the American Society of Landscape Architects, or the road and bridge specifications of the Virginia Department of Transportation. The county shall maintain current copies of these specifications available to the public.

(c) The minimum caliper of all deciduous trees planted shall be one (1) inch, and the minimum height of all evergreen trees shall be six (6) feet.

#### **Sec. 19-240.2. Canopy Requirements.**

(a) Construction Plans. All construction plans for subdivision plats shall provide for the planting and replacement of trees on site to the extent that, at maturity of twenty (20) years, the minimum tree canopy shall be as follows:

(1) Fifteen (15) percent tree canopy for sites zoned single family residential, with densities between ten (10) and twenty (20) units per acre.

(2) Twenty (20) percent tree canopy for sites zoned single family residential, with densities of ten (10) units or less per acre.

The plan shall show in graphic format all areas set aside to satisfy tree canopy requirements and the means by which such requirements will be satisfied.

(b) **Exclusions.** For the purpose of calculating the area of a site for tree canopy coverage requirements, the following areas shall be excluded:

- (1) Properties reserved or dedicated for future street construction, public facilities or other public improvements.
- (2) Ponds and unwooded wetlands.
- (3) Properties reserved or dedicated for school sites, playing fields and other non-wooded recreation areas, and other facilities and areas of a similar nature.
- (4) Portions of a site which contain existing structures that are not the subject of a pending application.

(c) **Credits for Preservation of Existing Trees.** Existing trees which are to be preserved may be included in the calculation of the canopy requirements, and may include wooded preserves, if the construction plans identify such trees and the trees meet standards of desirability and life-year expectancy as established by the director of environmental engineering.

#### **Sec. 19-240.3. Exceptions to Requirements.**

Upon written request of the developer, the director of environmental engineering may approve reasonable exceptions to, or deviations from, the requirements of Sections 19-240 through 19-240.2 in order to allow for the reasonable development of farmland or other areas devoid of healthy or suitable woody materials, for the preservation of wetlands, or when the strict application of requirements would result in unnecessary or unreasonable hardship to the developer. In such instances, the director of environmental engineering may approve satisfaction of a portion of a development's tree canopy requirement through use of a tree canopy bank or off-site planting or replacement of trees provided that the canopy thereby substituted is located within the Upper Swift Creek Watershed.

#### **Sec. 19-240.4. Enforcement.**

Penalties for violations of the requirements of Sections 19-240 through 19-240.3 shall be the same as those applicable to other violations of this chapter as set forth in Section 19-5. Notwithstanding the foregoing, this section shall apply only to tree canopy areas that (i) have been included in open space maintained by a home owners' association, (ii) are subject to a perpetual conservation easement, or (iii) are included on individual lots which have not received a certificate of occupancy.

- (2) That this ordinance become effective immediately upon adoption.*

AYES: Messrs. Gulley, Bass, Brown, Hassen and Waller.

#### **XIII. COMPREHENSIVE PLAN AMENDMENT.**

◆ **AMENDMENT TO THE INTRODUCTION, PLAN FOR CHESTERFIELD RELATIVE TO COUNTYWIDE LEVEL OF SERVICE FOR SCHOOLS.**

This amendment to the Introduction to the Plan for Chesterfield, if adopted by the Board of Supervisors, will become part of The Plan for Chesterfield, the County's comprehensive plan. The Plan for Chesterfield is used by County citizens, staff, the Planning Commission and Board of Supervisors as a guide for future decisions affecting the County including, but not limited to, decisions regarding future land use, road networks and zoning actions. The Plan does not rezone land, but suggests Ordinance amendments and other actions. Proposals relating to level of service standards for schools countywide reads as follows:

Ms. Barbara Fassett presented an overview of the Level of Service (LOS) for Schools Countywide and noted the presence of Ms. Cynthia Richardson and Dr. Mike Etienne from the School Administration.

Mr. Gulley opened the discussion for public comments.

Ms. Catherine Phillips expressed concerns relative to the process for testing for Adequate School Facilities; the developer's responsibility of determining the number of students generated from each subdivision; and the county's response to overcrowding issues.

Ms. Brenda Stewart expressed concerns that the proposed revision was being rushed into the *Plan*; that citizens on a countywide basis were not given the opportunity to voice their concerns; that adoption of the *Plan* would cause citizens' land to be devalued; that more analysis was needed before a decision was made; and that LOS should not be included in the introduction of the *Plan*.

Mr. Brennan Keene, commented that more open discussion and meetings on the *Plan* were needed on a countywide basis; and that adoption of the Amendment would slow down economic growth.

Ms. Andrea Epps, voiced her approval of LOS for Schools on a countywide basis; however, she expressed concerns that the *Plan* would cause developers to build apartments rather than subdivisions; slow down development in the Jefferson Davis Corridor; and force the School Board into a political tug-of-war. She stated that a different proffer policy could generate the construction of new schools for needy areas.

There being no one else to speak, Mr. Gulley closed the public comments.

The Commission held discussions and staff responded to questions. Upon conclusion of the discussions, the Commission approved the draft language for the Amendment to the Introduction, Plan for Chesterfield Relative to Countywide Level of Service and set the functional capacity at 120 percent.

On motion of Mr. Bass, seconded by Dr. Brown, the Commission resolved to recommend approval of the Amendment to the Introduction, Plan for Chesterfield Relative to Countywide Level of Service for Schools as follows:

**Countywide Levels of Service for Schools:**

***Amendment to the Introduction to the Plan for Chesterfield***

Proposal relating to level of service standards for schools countywide:

All residential rezoning applications are expected to pass the test for Adequate School Facilities. Schools shall be responsible for determining 1) the current enrollment for each school; 2) the functional capacity of each school; and 3) the anticipated impact of the proposed development based on the maximum number and type of residential dwelling units or lots, including proffers for limited or delayed development.

a. If any of the applicable public schools which would serve the future residential development on the subject property exceed 120% of functional capacity at the time of the review of the subject rezoning request, the proposed rezoning does not pass the test for Adequate School Facilities. In addition, the proposed rezoning will not pass the test for Adequate School Facilities if the anticipated enrollment at any school to serve the subject rezoning will exceed 120% of functional capacity upon the development of 1) the property proposed for rezoning; and 2) all unimproved residential lots in the service area shown on approved site plans and tentative subdivision plans.

b. However, when the functional capacity of any public school in the service area is determined to exceed 120% under the conditions described above, and where such school is expected to be improved so that its functional capacity will fall below 120% within one year of the date that the Board of Supervisors is scheduled to consider the subject rezoning request, the residential rezoning will pass the test for Adequate School Facilities.

AYES: Messrs. Gulley, Bass, Brown, Hassen and Waller.

#### **XIV. REMAINING SUBSTANTIAL ACCORDS, REZONING AND CONDITIONAL USES.**

There were no remaining substantial accords, rezoning and conditional uses.

#### **XV. CITIZEN COMMENT ON UNSCHEDULED MATTERS.**

There was no one who wished to speak.

#### **IX. ADJOURNMENT.**

There being no further business to come before the Commission, it was on motion of Mr. Hassen, seconded by Dr. Brown, that the meeting adjourned at 9:45 p.m. to August 19, 2008, at 12:00 Noon in the Multipurpose Meeting Room of the Chesterfield County Community Development Building, 9800 Government Center Parkway, Chesterfield, VA.

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Chairman/Date

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Secretary/Date